

END VIOLENCE AGAINST WOMEN : MAKE THE SYSTEM WORK, 6 MAR 2013

End Violence against Women and Children: Make the System Work International Women's Day 2013

In view of International Women's Day (IWD) on 8 March, the Women's Centre for Change (WCC) Penang has taken stock of the situation of victims of gender violence and our work towards ending violence against women and children.

WCC has been actively supporting victims of domestic violence and sexual assault by providing counseling, emotional support and supporting them through the process of reporting and attending court trials. When domestic violence or a sexual crime occurs, victims go to the respective government agencies (police, welfare) for the enforcement of the laws for justice and for protection of their lives.

WCC's experience through our clients is that some of the agencies' officers tasked with assisting victims of gender violence are unable to work effectively nor professionally. In many cases, women and children victims are mishandled by the very agencies which are meant to be their protectors. Worse still, many victims of violence complain that they are disbelieved or blamed for the incident they have experienced. We have come across agency personnel who are unclear of the law or are unwilling or unable to implement the laws pertaining to the protection of victims of violence. Victims are left traumatized and WCC spends endless hours through phone calls, visitations to the agencies and requests for dialogues, to make the system work. Below are three examples:

Enforcement and Protection under Domestic Violence Act (DVA)

Case 1: A woman in Penang was repeatedly beaten by her husband and has filed 13 police reports since 2005. The latest was 9 days ago when he tore off her blouse and hit her in a street in full view of others. Police comments over the duration of the violence have included "she must follow what her husband says", "the Interim Protection Order (IPO) cannot help her", "your husband still loves you", "the police are not in a position to handle domestic problems". In January 2011 the husband was finally charged in court and put under a good behaviour bond for 2 years. However, he beat her again with a helmet, violating the bond but no action was taken. In July 2012 WCC assisted her in obtaining an interim protection order (IPO) against her husband but she continued to be publicly harassed and beaten despite having since separated from him. The husband has clearly breached the protection order and the bond. After the last episode of violence, with WCC's persistence, her husband has finally been arrested and released after being charged for causing hurt, but not for the crime of breaching the IPO. In addition, her case in Syariah court to

file for fasakh divorce has been postponed several times as the husband failed to turn up.

How seriously is the Domestic Violence Act being taken?

Investigation Skills and Understanding of Sexual Crimes

Case 2: A child in Kedah under the care of an unregistered child minder, was forced to perform oral sex on his child minder's husband several times over 11 months. The criminal case was closed after only 6 days of investigation, without even considering the important medical reports where the child had been diagnosed with post traumatic stress disorder with emotional and behavioral disturbance. When the father asked the police to assess the trauma suffered, the police officer had replied "how do we measure that?" and "so far we have never prosecuted someone based on psychological trauma". The family's complaint was also treated with disbelief by the social welfare officer (i.e. the child protector) after having spoken to the alleged perpetrator.

It is unclear whether the child protection team had interviewed other children cared for by the child minder to assess the possible harm. Neither the victim nor his parents were given adequate support or proper counseling by social welfare officers despite the young victim displaying very clear signs of trauma. No action has been taken against this child minder for operating an unregistered child care business and exposing the children under her care to potential harm or risk of abuse from the alleged perpetrator. The criminal case was only reopened for investigation after a letter was sent to the Attorney General's Chambers. Two months have since passed and the family has not been informed of a decision regarding the continued investigations.

When sexual abuse happens to children, the family members and the victims suffer immeasurable pain and frustration. The lack of investigative skills and understanding of investigating officers in taking statements and in recognizing and collecting crucial evidence for charging the suspect, makes reporting a crime almost pointless.

Breach of a child victim's privacy: Section 15 of Child Act 2001

Section 15 states that it is a crime for the media to publish pictures or any information which may lead to the identification of the child victim. This is happening on a regularly basis and yet no action has been taken against the irresponsible media. In one case, the criminal case charge sheet with the child's name and address was shown on national TV and a website. In another case, two young child victims were brazenly paraded in front of the media by the police for publicity. In a third case the photos of the children and the suspects together with the location of their home were published in a magazine. Such exposure of the child

kaunseling yang sesuai, sedangkan mangsa kanak-kanak menunjukkan kesan trauma yang sangat jelas. Tiada tindakan diambil terhadap pengasuh kerana menerima bayaran menjaga kanak-kanak tanpa lesen dan mendedahkan kanak-kanak di bawah jagaannya kepada risiko deraan seksual oleh suaminya. Kes jenayah telah dibuka semula hanya setelah surat rasmi dihantar ke pihak Jabatan Peguam Negara. Dua bulan sudah berlalu dan keluarga mangsa masih belum dimaklumkan keputusan tentang siasatan lanjut yang dibuat.

Apabila penderaan seksual berlaku kepada kanak-kanak, ahli keluarga dan mangsa sendiri mengalami keperitan dan kekecewaan. Kurangnya kemahiran menyiasat dan pemahaman pegawai penyiasat dalam mengambil kenyataan saksi, dan dalam mengenalpasti dan mengumpul bukti-bukti penting untuk menuduh saspek, menjadikan laporan jenayah suatu perkara yang hampir sia-sia.

Melanggar kerahsiaan butir-butir mangsa kanak-kanak: Seksyen 15 Akta Kanak-kanak 2001

Seksyen 15 menyatakan bahawa menyiarkan gambar atau sebarang maklumat yang membolehkan mangsa kanak-kanak dikenalpasti, adalah suatu jenayah. Siaran sedemikian kini sering berlaku namun tiada tindakan diambil terhadap media berkenaan. Di dalam suatu kes, kertas pertuduhan bagi kes jenayah yang menyatakan nama dan alamat mangsa kanak-kanak telah disiarkan dalam berita TV media perdana dan di laman web. Dalam suatu kes lain, dua mangsa kanak-kanak telah "ditayang" tanpa segan-silu di hadapan media oleh pihak polis untuk tujuan publisiti. Di dalam kes ketiga, gambar-gambar mangsa kanak-kanak, saspek dan lokasi rumah mereka telah disiarkan dalam sebuah majalah. Pendedahan sebegini menyebabkan trauma yang serius kepada mangsa kanak-kanak, dan sangat mengaibkan kanak-kanak dan keluarga mereka, terutamanya di dalam kes sensitive seperti penderaan seksual kanak-kanak, dan akhirnya mungkin boleh menjejaskan perbicaraan jenayah itu sendiri.

Melaporkan jenayah merupakan suatu keputusan yang amat berat bagi orang awam. Apabila agensi bertanggungjawab lemah mengendalikan kes, kesannya wanita dan kanak-kanak yang menjadi mangsa keganasan akan berasa diabaikan dan putus asa.

Kebimbangan WCC adalah tentang sikap sangsi dan keberatan mengambil tindakan dalam siasatan atau terhadap saspek jenayah yang ditunjukkan oleh sebahagian kakitangan agensi kerajaan. Hak-hak mangsa tidak dihormati dan ramai telah sebaliknya dinilai sebagai penyebab jenayah tersebut. Wanita dan kanak-kanak perlukan sokongan, tindakan pantas dan pelaksanaan undang-undang yang berkesan, bukannya ketidakpercayaan atau rasa sangsi.

WCC menuntut agar:

- **Aduan keganasan terhadap wanita dan kanak-kanak ditangani dengan berkesan dan cekap.**
- **Kakitangan agensi berkenaan perlu ditambah dan lebih terlatih dengan kemahiran dan pengetahuan yang diperlukan agar pelaksanaan undang-undang secara professional dapat dipastikan.**
- **Pembaharuan secara menyeluruh dibuat untuk membentuk budaya rasa empati dan hormat kepada mangsa keganasan.**

Jadi pada Hari Wanita Sedunia ini, WCC mengatakan – Cukup!

Pastikan system yang berkesan bagi mangsa keganasan rumahtangga dan jenayah seksual. Pastikan ia berkesan sekarang juga.